

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

<div style="border-top: 1px solid black; border-bottom: 1px solid black; height: 2px; margin-bottom: 5px;"></div> EDWARD J. MCNATT,)	
)	
v.)	C.A. No. 04-225 Erie
)	District Judge McLaughlin
PA BD OF PROBATION & PAROLE,)	Magistrate Judge Baxter
Respondent.)	

ORDER

On August 14, 2004, Petitioner, a prisoner appearing *pro se*, filed the instant petition for writ of habeas corpus. This matter was assigned to United States District Judge Sean J. McLaughlin and was referred to United States Magistrate Judge Susan Paradise Baxter for report and recommendation in accordance with the Magistrates Act, 28 U.S.C. § 636(b)(1), and Rules 72.1.3 and 72.1.4 of the Local Rules for Magistrates.

By Order dated July 12, 2005, Petitioner was directed to show cause for his failure to cooperate with the U.S. Marshal Service to serve this case. Document # 7. Petitioner responded explaining that there had been a mixup over payments at the Marshal Service with several of his cases. This Court responded giving Petitioner until August 10, 2005 to provide proof of payment of the service fees in this case. Petitioner did not respond by August 10, 2005.

On August 11, 2005, this Court issued a Report and Recommendation recommending the dismissal of this matter for failure to prosecute. Document # 9. Petitioner filed Objections to the Report and Recommendation requesting that he have until August 22, 2005 to provide proof of payment of the service fees.

As of today's date, Petitioner has still not provided this Court with proof of his cooperation with the U.S. Marshal Service. This case is over a year old and Petitioner has taken

none of the initial steps to accomplish service.

AND NOW, this 2nd day of September, 2005;

Following a *de novo* review of the record in this case, IT IS HEREBY ORDERED that the Report and Recommendation by Magistrate Judge Baxter is adopted as the opinion of this Court. This case is dismissed without prejudice due to Petitioner's failure to prosecute.

IT IS FURTHER ORDERED that the Clerk of Courts close this case.

S/ Sean J. McLaughlin
SEAN J. MCLAUGHLIN
UNITED STATES DISTRICT JUDGE